REMARKS OF HENRY A. WAXMAN,

CHAIRMAN,

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

BEFORE

THE CALIFORNIA ASSOCIATION OF HEALTH FACILITIES

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I'M GLAD TO BE ABLE TO JOIN YOU TODAY.

LET ME BEGIN BY OUTLINING THE FATE OF HEALTH PROGRAMS IN THE CONGRESS THAT IS NOW DRAWING TO AN END.

I WISH I COULD GIVE YOU A LONG LIST OF ALL THE INNOVATIVE PROGRAMS WE'VE BEEN ABLE TO ENACT. UNFORTUNATELY, IT WAS JUST NOT THAT KIND OF CONGRESS. OUR CHIEF ACCOMPLISHMENT HAS NOT BEEN THE ENACIMENT OF GOOD LEGISLATION; RATHER, IT HAS BEEN THE DEFEAT OF SOME VERY BAD PROPOSALS.

FOR THE PAST TWO YEARS, THE REAGAN ADMINISTRATION HAS PURSUED AN OBJECTIVE THAT IS SIMPLE AND HARSH. THE ADMINISTRATION WANTS TO CUT FEDERAL HEALTH SPENDING BY SHIFTING THE COSTS OF HEALTH CARE FOR THE POOR AND THE ELDERLY ONTO THE STATES, THE COUNTIES, THE PATIENTS, THE PRIVATE SECTOR, AND ANYONE ELSE AVAILABLE.

FOR THOSE OF US FROM CALIFORNIA, THIS COMES AS NO SURPRISE. THE PRESIDENT HAS ADVOCATED DRAMATIC HEALTH PROGRAM CUTS FOR MANY YEARS. YOU MAY RECALL THE MEDI-CAL CUTS THAT MR. REAGAN PUT IN PLACE WHILE HE WAS GOVERNOR. THE EFFECT OF THESE MEDI-CAL "REFORMS" WAS TO SHIFT COSTS TO THE COUNTIES.

THE RESULT WAS PREDICTABLE. COUNTIES BEGAN TO CUT BACK ON THEIR HEALTH CARE SERVICES. SOME EVEN CLOSED THEIR PUBLIC HOSPITALS ALTOGETHER. MEDICAL CARE BECAME LESS AVAILABLE FOR THE POOR AND NEEDY.

THE ADMINISTRATION'S FEDERAL HEALTH POLICY IS A GRADE-B RERUN OF THE 1971 MEDI-CAL CHANGES. IT HAS ATTEMPTED TO SHIFT THE RESPONSIBILITY FOR FINANCING HEALTH CARE FOR THE POOR FROM THE FEDERAL GOVERNMENT TO THE STATES. THE STATES ARE TURNING AROUND AND SHIFTING THE COSTS ONTO THE COUNTIES AND CITIES. THE POOR AND THE NEEDY ARE THE ULTIMATE LOSERS IN THIS GAME.

LET'S LOOK A LITTLE MORE CLOSELY AT WHAT HAPPENED. IN HIS FIRST BUDGET PRESIDENT REAGAN PROPOSED $11 BILLION IN MEDICARE AND MEDICAID CUTS OVER THREE YEARS. THE MOST IMPORTANT OF THESE WAS THE PROPOSED "CAP" ON FEDERAL MEDICAID PAYMENTS TO THE STATES.

WE FOUGHT THAT BUDGET AS VIGOROUSLY AS WE COULD. WE SUCCEEDED IN REDUCING CUTS IN HEALTH CARE BY ABOUT 40 PER CENT. AND WE BEAT BACK THE "CAP" TO PRESERVE THE MEDICAID ENTITLEMENT. BUT WE ENDED UP WITH $6.5 BILLION IN FEDERAL PROGRAM CUTS OVER 3 YEARS.

THE MOST DEVASTATING WAS THE $3 BILLION MEDICAID CUT, COMING LARGELY FROM A THREE YEAR REDUCTION IN FEDERAL MATCHING PAYMENIS TO THE STATES. THIS SEVERE COST SHIFT HAS PUT MAJOR PRESSURE ON STATES TO CUT THEIR PROGRAMS.

IN CALIFORNIA, FOR INSTANCE, THE RESPONSE HAS BEEN TO TIGHTEN ELIGIBILITY LEVELS, TO REDUCE PROVIDER REIMBURSEMENT RATES, AND TO SHIFT RESPONSIBILITY FOR MEDICALLY INDIGENT ADULTS TO THE COUNTIES. THE STATE IS ALSO BEGINNING TO CONTRACT ON A SELECTIVE BASIS WITH HOSPITALS FOR INPATIENT SERVICES, ENDING THE PATIENTS' FREEDOM OF CHOICE. WILL THE SAME COST-CUTTING STRATEGY BE APPLIED TO NURSING HOMES?

IN HIS SECOND BUDGET, SUBMITTED TO CONGRESS LAST FEBRUARY, THE PRESIDENT PROPOSED MORE OF THE SAME. HE ASKED FOR ANOTHER THREE-YEAR CUT IN MEDICARE AND MEDICAID -- THIS TIME TOTALLING $24 BILLION.

AMONG THE MEDICAID PROPOSALS WAS ONE THAT WOULD HAVE HAD A DRAMATIC IMPACI ON YOU AND YOUR PATIENTS -- A 3 PERCENTAGE POINT REDUCTION IN THE FEDERAL MATCHING RATE FOR SO-CALLED "OPTIONAL" SERVICES AND "OPTIONAL" BENEFICIARIES LIKE THE MEDICALLY NEEDY.

ONCE AGAIN, WE FOUGHT THE BUDGET. WE SUCCEEDED IN REDUCING THE MAGNITUDE OF THE CUTS BY 45 PER CENT. BUT WE STILL ENDED UP THIS AUGUST WITH A $13 BILLION REDUCTION OVER THE NEXT THREE YEARS.

OUR MAJOR VICTORY IN DAMAGE CONTROL THIS YEAR WAS MEDICAID. WE COULD NOT ACCEPT THE ADDITIONAL $8 BILLION THREE-YEAR MEDICAID CUT THAT THE ADMINISTRATION PROPOSED. STATES SIMPLY COULD NOT AFFORD IT. CALFORNIA, FOR EXAMPLE, WOULD HAVE HAD ITS MATCHING PAYMENTS REDUCED BY ANOTHER $113 MILLION IN THE FISCAL YEAR THAT STARTED OCTOBER 1. YOU CAN IMAGINE WHAT FURTHER CUTS THE STATE WOULD HAVE HAD TO MAKE IN RESPONSE!

WE WERE ABLE TO PERSUADE THE MEMBERS THAT THE REAGAN "3 PERCENT SOLUTION" AND SIMILAR COST-SHIFTING PROPOSALS MADE NO SENSE. WE SUCCEEDED IN LOWERING THE MEDICAID CUT FROM $8 BILLION TO $1 BILLION OVER THE NEXT THREE YEARS. THIS IS CERTAINLY AN IMPROVEMENT, BUT WILL STILL BE DIFFICULT FOR THE STATES TO DEAL WITH.

WHILE MUCH OF THE FIGHTING WENT ON OVER DOLLARS, A GOOD BIT OF IT INVOLVED THE FINE PRINT. HERE AGAIN, WE WERE ABLE TO FORCE SOME IMPORTANT CONCESSIONS.

FOR EXAMPLE, UNDER THE MEDICAID CHANGES ENACTED THIS AUGUST, STATES WILL NOW BE ALLOWED TO IMPOSE COPAYMENTS ON CASH ASSISTANCE RECIPIENTS WHO ARE TOO POOR TO AFFORD MEDICAL CARE. BUT WE SUCCEEDED IN PREVENTING STATES FROM IMPOSING COPAYMENTS ON MOST BENEFICIARIES IN NURSING HOMES, BOTH MEDICALLY NEEDY AND CATEGORICALLY NEEDY. THIS AVOIDS A REDUCTION IN REIMBURSEMENT TO THE HOMES, SINCE FEW OF THE PATIENTS WOULD HAVE BEEN ABLE TO AFFORD ANY COPAYMENT AND THE PROVIDERS WOULD JUST HAVE HAD TO ABSORB THE LOSS.

ANOTHER ISSUE ON WHICH WE WERE ABLE TO MAKE IMPROVEMENTS HAS TO DO WITH LIENS. UNDER THE NEW LAW, STATES ARE ALLOWED TO IMPOSE LIENS ON THE HOMES OF MEDICAID PATIENTS IN NURSING HOMES. THE LIEN WOULD ALLOW THE STATE TO FORECLOSE ON THE BENEFICIARY'S PROPERTY TO RECOVER THE COST OF MEDICAL ASSISTANCE.

MEMBERS OF MY SUBCOMMITTEE AND I ARE GRAVELY CONCERNED ABOUT THE IMPACT OF THIS PROVISION ON BENEFICIARIES AND THEIR FAMILIES. FOR MANY MEDICAID RECIPIENTS, THE HOME IS ONE OF THEIR MAIN EMOTIONAL AND FINANCIAL ASSETS. THE IMPOSITION OF A LIEN WILL BE A MAJOR TRAUMA FOR MANY ELDERLY. THOSE WITH THE ABILITY TO AFFORD LEGAL COUNSEL AND FINANCIAL ADVICE WILL BE ABLE TO AVOID THE LIEN BY TRANSFERRING THEIR PROPERTY WELL IN ADVANCE OF APPLICATION FOR MEDICAID. THOSE LESS AFFLUENT WILL GET CAUGHT.

WHILE WE COULD NOT DEFEAT THIS PROVISION ENTIRELY, WE DID INSIST ON LANGUAGE THAT PROHIBITS THE STATES FROM IMPOSING LIENS ON BENEFICIARIES' HOMES SO LONG AS A SPOUSE, DEPENDENT CHILD, OR SIBLING IS LIVING IN THE HOME. THIS PROVISION WILL GIVE ELDERLY BROTHERS AND SISTERS AN INCENTIVE TO CARE FOR EACH OTHER AT HOME, WHICH MAY KEEP MORE PEOPLE OUT OF NURSING HOMES UNTIL REALLY NECESSARY.

THE LEGISLATIVE RECORD OVER THE PAST TWO YEARS WAS NOT ALL NEGATIVE. WE DID MANAGE TO ENACT THE MEDICAID COMMUNITY CARE WAIVER, WHICH CREATES A FRAMEWORK FOR INNOVATION IN THE LONG-TERM CARE FIELD. THIS PROVISION ALLOWS STATES TO OFFER AN ARRAY OF HOME AND COMMUNITY-BASED SERVICES AS AN ALTERNATIVE TO NURSING HOME CARE.

I AM EXCITED BY THE POSSIBILITIES OF THIS PROVISION. WE NOW HAVE A FINANCING SYSTEM WHICH INADVERTENTLY ENCOURAGES OVER-USE OF NURSING HOMES AND DISCOURAGES EFFORTS BY THE ELDERLY TO REMAIN IN THE COMMUNITY. IT IS IMPORTANT THAT WE BEGIN TO DEVELOP REIMBURSEMENT PROGRAMS AND DELIVERY SYSTEMS THAT ALLOW PEOPLE TO LIVE OUTSIDE OF INSTITUTIONS IF THEY CAN AND WANT TO DO SO.

A NUMBER OF STATES HAVE BEGUN TO TAKE ADVANTAGE OF THIS CHANCE TO OFFER RESPONSIBLE ALTERNATIVES TO THEIR POOR AND ELDERLY. AT LAST COUNT, 31 STATES HAVE SUBMITTED WAIVER REQUESTS, AND 16 OF THOSE HAVE ALREADY BEEN GRANTED BY THE DEPARTMENT.

WE IN THE CONGRESS WILL BE FOLLOWING THE EXPERIENCE UNDER THESE WAIVERS QUITE CLOSELY. WE NEED TO KNOW HOW THE FLOW OF MEDICAID DOLLARS INTO HOME AND COMMUNITY-BASED CARE AFFECTS THE HEALTH AND WELL-BEING OF THE BENEFICIARIES AND THE COST OF THE PROGRAM. WE ALSO NEED TO SEE WHAT NEW ARRANGEMENTS ARE DEVELOPED BY PROVIDERS TO RESPOND TO THE NEED FOR THESE ALTERNATIVE SERVICES.

I DO NOT MEAN TO SUGGEST THAT COMMUNITY CARE IS THE ANSWER TO ALL OF OUR LONG-TERM CARE PROBLEMS. EVEN IF WE EXPAND FINANCING FOR HOME HEALTH, THERE WILL STILL BE A NEED FOR -- AND IN SOME COMMUNITIES A SHORTAGE OF -- ADEQUATE NURSING HOME CARE.

COMMUNITY CARE CAN ENSURE THAT THE INDEPENDENT ELDERLY LIVE INDEPENDENTLY. BUT WE ALL RECOGNIZE THAT THERE ARE ELDERLY AND DISABLED PERSONS WHO CANNOT LIVE INDEPENDENTLY. FOR THESE PERSONS, NURSING HOMES PLAY A CRUCIAL CARE-GIVING ROLE.

AS YOU WELL KNOW, THE QUESTION OF FINANCING LONG-TERM CARE IS EXTRAORDINARILY COMPLEX. YET THE ADMINISTRATION HAS NOT COME FORWARD WITH ANY CONSTRUCTIVE PROPOSALS TO ADDRESS THIS PRESSING PROBLEM.

NOR, FOR THAT MATTER, HAS IT COME FORWARD WITH ANY CONSTRUCTIVE RESPONSES TO ANY OF THE MAJOR POLICY ISSUES CONFRONTING US. HEALTH CARE EXPENDITURES CONTINUE TO RISE AT RATES CONSIDERABLY ABOVE THE GENERAL RATE OF INFLATION, AND THERE ARE MILLIONS OF PEOPLE IN THIS COUNTRY WITH NO PUBLIC OR PRIVATE HEALTH COVERAGE WHATSOEVER.

INSTEAD, THE ADMINISTRATION HAS GIVEN US NOTHING BUT A SERIES OF COST-SHIFTING PROPOSALS IN A DESPERATE EFFORT TO DIVEST THE FEDERAL GOVERNMENT OF ANY RESPONSIBILITY FOR HEALTH CARE PROBLEMS.

THE MOST BLATANT OF THESE PROPOSALS IS THE SO-CALLED "NEW FEDERALISM" PLAN. THE PRESIDENT IS PROPOSING TO TURN OVER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM TO THE STATES IN EXCHANGE FOR THE FEDERALIZATION OF MEDICAID.

IT TURNS OUT, HOWEVER, THAT THE ADMINISTRATION HAS NO INTENTION WHATSOEVER OF FEDERALIZING THE LONG-TERM CARE PORTION OF THE MEDICAID PROGRAM. INSTEAD, NURSING HOME AND HOME HEALTH PAYMENTS WOULD BE LUMPED INTO A BLOCK GRANT THAT WOULD BE INDEXED IN SOME WAY FOR INFLATION AND POPULATION GROWTH.

WHILE THE "FLEXIBILITY" THAT COMES WITH A LONG-TERM CARE BLOCK GRANT MIGHT SEEM APPEALING AT FIRST BLUSH, IT'S QUITE CLEAR WHAT THE ADMINISTRATION IS TRYING TO DO. IT WANTS TO END THE MEDICAID ENTITLEMENT FOR THE ELDERLY AND THE DISABLED WHO NEED LONG-TERM CARE. ONCE THE "CAP" ON THESE SERVICES IS IN PLACE, IT WILL BE RELATIVELY EASY TO "ADJUST" THE INDEXES IN ORDER TO SAVE FEDERAL DOLLARS. THIS WILL LEAVE THE STATES, THE COUNTIES, AND ULTIMATELY THE BENEFICIARIES WITH INSUFFICIENT RESOURCES TO FINANCE NEEDED SERVICES.

SO FAR, THE PRESIDENT HAS INDICATED HE INTENDS TO STAY THIS COURSE. BUT THE ADMINISTRATION'S CURRENT COURSE WON'T GET THE COUNTRY BACK TO WORK, AND IT WON'T GET OUR LONG-TERM CARE PROBLEM UNDER CONTROL.

YOU ALL KNOW THE DEMOGRAPHICS. IN 1980, THERE WERE ABOUT 26 MILLION PEOPLE IN THIS COUNTRY OVER 65. SOME 40 PERCENT OF THOSE WERE OVER AGE 75 -- THE AGE GROUP MOST AT RISK FOR NURSING HOME CARE.

BY THE YEAR 2020, I AND MANY IN THIS ROOM WILL BE AMONG THE 53 MILLION PEOPLE OVER 65. ABOUT 43 PERCENT OF US -- OR 23 MILLION PEOPLE -- WILL BE OVER 85.

WE DON'T HAVE A FINANCING OR DELIVERY SYSTEM IN PLACE TO COPE WITH THIS EXPLOSION IN DEMAND FOR LONG-TERM CARE SERVICES. I DON'T PRETEND TO HAVE THE ANSWERS. BUT I AM COMMITTED TO DEVELOPING THEM, JUST AS I AM COMMITTED TO OPPOSING FURTHER ADMINISTRATION EFFORTS TO MAKE THE PROBLEM WORSE.

I LOOK FORWARD TO WORKING WITH YOU ON THIS IN THE FUTURE. THANK YOU ONCE AGAIN FOR INVITING ME.